

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JESSE C. LYONS,

Petitioner,

-vs-

MARGARET BRADSHAW, Warden,

Respondent.

CASE NO. 1:04 CV 2186

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING HABEAS PETITION

UNITED STATES DISTRICT JUDGE LESLEY WELLS

Before this Court is Jesse Lyons' petition for a writ of habeas corpus, filed pursuant to 28 U.S.C. § 2254. This case was automatically referred to United States Magistrate Judge Kenneth S. McHargh for a Report and Recommendation ("R&R"). Magistrate Judge McHargh considered the petition and the respondent's return of writ. On 14 February 2007, Judge McHargh filed his R&R, recommending that Mr. Lyons' petition be dismissed because (1) Mr. Lyons failed to establish that the state court decision regarding the timeliness of his application for re-opening was contrary to, or involved an unreasonable application of, clearly established law, and (2) Mr. Lyons' claim of ineffective assistance of counsel was procedurally defaulted.

Because no party objects to Magistrate Judge McHargh's R&R, it must be assumed that the parties are satisfied with it. Any further review by this Court would be a duplicative and inefficient use of the Court's limited resources. Thomas v. Arn, 474

U.S. 140 (1985); Howard v. Secretary of Health and Human Services, 932 F.2d 505 (6th Cir. 1991); United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

Accordingly, the Magistrate Judge's R&R is adopted and Mr. Lyons' habeas petition is dismissed. The Court certifies pursuant to 28 U.S.C. §1915(a)(3) that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

/s/Lesley Wells
UNITED STATES DISTRICT JUDGE

Date: 23 March 2007